

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13010 of 1994

Date of decision: 18-9-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHIMANLAL LAXMANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

Ms. Mamta Vyas for Petitioners
Mr. S.R. Divetia for Respondent No. 1
Mr. B. N. Patel for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/09/97

ORAL JUDGEMENT

Though it is not in dispute that the impugned orders have not been filed on record of this special civil application, the counsel for the respondent does not dispute that the order passed against the petitioners taking away the benefit of higher pay-scale given to them have in fact been passed. This court has protected the petitioners and that fact goes to show that the Court was satisfied that some prejudicial order has been passed against the petitioners . The counsel for the respondents has raised preliminary objection that the petition is not maintainable as the resolution which is impugned in this special civil application has been passed after hearing the Union and Employees' Association. On this point there is no dispute. So far as the validity of the resolution is concerned, it is subject matter of challenge in special civil application no.10599/94. But the fact remains that the petitioners are the personas whose pay has been reduced and further orders have been passed for recovery of the excess payment, said to have been made to them. These consequential orders have admittedly been passed without notice and affording opportunity of hearing to the petitioners. So on this short question this petition deserves to be accepted. Order accordingly. Special civil application and rule stand disposed of. However, this order of the court will not come in the way of the respondents to pass fresh order in accordance with law after giving a notice and opportunity of hearing to the petitioners. This exercise may be undertaken and completed within three months from the date of receipt of writ of this order. Till then the interim relief granted by this Court shall continue. No orders as to costs.

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